

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

F.A.O No. 5451 of 2012

Date of decision:- 05.04.2018

Oriental Insurance Co. Ltd.

...Appellant

Versus

Nasib Kaur and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. Priya Deep, Advocate for Mr. Ashwani Talwar, Advocate
for the appellant

Mr. S.K. Bawa, Advocate for Mr. K.S. Sidhu, Advocate
for respondent Nos. 1 to 5.

RITU BAHRI J. (Oral)

The present appeal has been preferred by the Insurance Company-appellant, seeking modification of the award passed by the Motor Accidents Claim Tribunal, Bathinda (for short, 'the Tribunal') to the tune of Rs.24,68,000/-, vide impugned award dated 22.05.2012 in a claim petition filed under Section 166 of the Motor Vehicles Act (for short 'the Act') on account of death of Atma Singh who was going to his duty in Thermal Plant, Bathinda on his moped, which was being hit by truck trall bearing registration No. PB-04L-9698. The offending vehicle was being driven by respondent No. 1 in a rash and negligent manner. Due to this accident, the deceased suffered multiple injuries and he died in DMC Ludhiana on 17.11.2010

Learned counsel for the appellant is challenging the impugned award only on the quantum by stating that the compensation awarded by the Tribunal is on the higher side

The appeal of the Insurance Company is liable to be rejected in view of a recent judgment of Hon'ble the Supreme Court of India in a case of ***National Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017*** wherein the issue with regard to awarding of amount under the conventional heads has been authoritatively decided, while observing as under :-

“54. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh. It has granted Rs. 25,000/- towards funeral expenses, Rs. 1,00,000/-loss of consortium and Rs. 1,00,000/- towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix

reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.”.

In the present case, as per salary slip the deceased was drawing the salary of Rs.28,293/- at the time of his death and the Tribunal took the income of the deceased at Rs.32000/- per month, keeping in view the rise in income in the future.

No ground is made out to interfere in the impugned award dated 22.05.2012, as now in view of the latest judgment, the future prospects of 50% were also to be awarded to the claimants.

Dismissed.

05.04.2018

G Arora

***Whether speaking/reasoned
Whether reportable***

***Yes
No***

**(RITU BAHRI)
JUDGE**